

**CITY OF NEWBERG
CITY COUNCIL MINUTES
TUESDAY, FEBRUARY 22, 2011
7:00 P.M. MEETING**

PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

Work Session was held prior to the meeting. A presentation was made by the Public Works Director regarding fluoride treatment in city water. No decisions were made. An executive session was held during the work session prior to the meeting. No decisions were made. Mayor Andrews recessed the executive session at 7:00 PM to reconvene at the end of the regular business meeting.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:10 p.m.

II. ROLL CALL

Members

Present:	Mayor Bob Andrews	Denise Bacon	Stephen McKinney
	Bart Rierson	Wade Witherspoon	Marc Shelton
	Ryan Howard		

Staff

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Barton Brierley, Planning and Building Director	Norma Alley, City Recorder
	Crystal Kelley, Minute Recorder	

Others

Present: Hank Grum, Pat Haight, Jim Morrison, and Roger Wiltshire.

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Daniel Danicic, City Manager, reported Grocery Outlet has a ribbon cutting ceremony this Wednesday at 4:30 PM and the grand opening celebration is this Saturday all day.

V. COUNCIL APPOINTMENTS

Consider a motion appointing Planning Commissioner Thomas Barnes and Councilor Stephen McKinney to the Newberg Urban Area Management Commission.

MOTION: Rierson/Shelton to appoint Planning Commissioner Thomas Barnes and Councilor Stephen McKinney to the Newberg Urban Area Management Commission to serve for the remainder of their respective commissioner and council terms. (7 Yes/0 No) Motion carried.

V. PUBLIC COMMENTS

Mr. Hank Grum provided public testimony on altruism. He feels that city manager and council decisions are often based on the principles of altruism and collectivism rather than of individuals' rights and the Constitution. He would like to see this change.

Ms. Pat Haight provided public testimony suggesting the city's internal controls should be audited every two to three years to ensure accuracy and asked the Council to reconsider the employment of the city manager for the city of Newberg.

Mr. Jim Morrison provided public testimony about councilors being available to the citizens in their area and suggesting councilors hold meetings in their district.

Mr. Morrison began to speak on the rezoning. Mr. Terrance Mahr, city attorney, stated the record is closed on Order No. 2011-0030 and the Council is unable to take testimony on this issue. Mr. Morrison stated it has to be with the development of that issue. He would like to have this be a part of general comments to the city. Mayor Andrews stated if the comments are on the rezoning issue he will not be able to allow them under public comments.

Mr. Roger Wiltshire provided public testimony on council not abiding by the rules, not receiving a response to one of his inquiries, why the city's line item in the budget was changed from transient room tax to transient lodging tax, allowing each person their five minutes for public comments, and encouraged the council to look into the fire department opening a lock for someone on the city's dollars when this should go through a locksmith.

VII. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2011-2931** approving an increase in ambulance services rates.
2. Consider a motion approving **Resolution No. 2011-2932** supporting a Safe Routes to School application to the Oregon Department of Transportation.
3. Consider a motion approving **Resolution No. 2011-2934** adopting a revised city manager position description.
4. Consider a motion approving City Council Minutes for January 18, 2011 as amended.

MOTION: Rierson/Bacon approve the Consent Calendar including **Resolution No. 2011-2931** approving an increase in ambulance service rates, **Resolution No. 2011-2932** supporting a Safe Routes to School application to the Oregon Department of Transportation, **Resolution No. 2011-2934** adopting a revised city manager position description, and approving City Council Minutes for January 18, 2011. (7 Yes/0 No) Motion carried.

VIII. PUBLIC HEARINGS

TIME – 7:39 PM

1. Consider a motion approving **Order No. 2011-0030** amending the Comprehensive Plan map designation from Low Density Residential (LDR) to High Density Residential (HDR) and amend the Zoning designation from R-1 (Low Density Residential) to R-3 (High Density Residential) for a property located at 1103 North Meridian Street.

Mr. Terrance Mahr, city attorney, explained the need to address ex-parte contact, such as written correspondence addressed directly to the council and newspaper articles, into the record only if they are read by the council. Some councilors confirmed they did not read the ex-parte contact and some had read them.

MOTION: McKinney/Shelton to include the ex-parte contact into record for **Order No. 2011-0030**. (7 Yes/0 No) Motion carried.

MOTION: Howard/Shelton to deny the request from Mr. Tsohantaridis to postpone deliberation and reopen the record for **Order No. 2011-0030** (6 Yes/1 No [McKinney]) Motion carried.

Mayor Andrews recessed the meeting at 7:54 PM to allow for the council to review the ex-parte contact. The meeting reconvened at 8:00 PM.

Mr. Barton Brierley presented the staff report (see official meeting packet for full report).

Deliberations:

Councilor Shelton stated the opportunity for the parties to continue to talk does not end with the vote tonight. The idea was to provide the time. They have had the time since the December meeting. In the conditions they are providing an opportunity to be heard. They may not have the decision go the way they would hope but they have been heard. It is important for others to be heard but it has to be in an organized sense. Putting zone changes to the vote of the people would be tiresome to the people. If everything the council decides has to go to a vote of the people little would get done. The decision the City Council has taken on this issue has taken an ample amount of time. Based on the criteria he supports the issue based on the amount of time that has been given to the issue. He is more comfortable with it then he was on December 6, 2010.

Councilor Howard stated with zone changes the applicant has the burden of presenting the benefits of the zone change. He feels they have met this burden by indicating there is a need for affordable housing and the area is suitable for the need. He is in support of the zone change for those reasons.

Councilor Witherspoon stated it is the right project in the right town just in the wrong place.

Councilor Bacon stated she felt the applicant did a great job looking at everything. She was unable to find one item they missed. For that reason she will support the order.

Councilor McKinney stated he continues to not support the zone change. The neighbors have the right to ask for their neighborhoods to not reasonably be disrupted. It creates a deficiency in the R-1 land availability and creates an additional R-3 congestion. They are not addressing the deficiency they have in R-1 just to fulfill an R-3 type of need. He feels it is a livability issue and not creating a healthy community. It is a hard subject for all parties to be happy with the outcome. Page 44 and 45 of the record does not address what will happen on Evergreen and Sierra Vista Streets. The overlay will require additional dollars to be spent on the property. With this he can not in good conscience support the proposal.

Councilor Rierson stated in the past he has not supported zone changes such as this. He thinks this is the right place, time, and location. We need R-3 housing more than we need R-1 housing. He is in support of the order.

Mayors Andrews stated the council is only considering a comprehensive plan change and a zone change. He commended the staff and the participants who have done the work on the documents. He was concerned about the history of the zoning on the west side of Meridian Street. It has been historically a R-1 zone for years and the east side was M-1. There have been a number of zone changes during that time in order to accommodate the condos. The west side of Meridian Street has not had that same history. The whole thing has been a zoning issue. The issues brought out are going to be present with any R-1 development requests. There are properties currently zoned R-3 that could be developed. If the housing authority does not build a housing development it reverts to R-1.

Councilor Shelton stated the concern he had about Evergreen and Sierra Vista is mitigated if there is a fence. He feels comfortable with the conditions on that.

Councilor McKinney stated the fence worsens the issue for him. It ended up being an area that is not integrated with the rest of the community. If they add another fence then the particular group ends up feeling isolated from their neighbors to the south, west, and the north; creating a barrier rather than a health community. The neighbors need to feel they are a part of the community.

MOTION: Shelton/Bacon to approve **Order No. 2011-0030** amending the Comprehensive Plan Map designation from Low Density Residential (LDR) to High Density Residential (HDR) and amend the Zoning designation from R-1 (Low Density Residential) to R-3 (High Density Residential) for a property located at 1103 North Meridian Street as amended. (4 Yes/3 No [Witherspoon/Andrews/McKinney]) Motion carried.

IX. CONTINUED BUSINESS

TIME – 8:41 PM

1. Consider a motion approving **Resolution No. 2011-2927** approving an agreement with the Chamber of Commerce to operate and manage a Visitor Information Center.

This item was moved from the consent calendar to council business for discussion

Councilor Howard stated he is uncomfortable with allotting a percentage, because we can not perceive what the revenue will be in the future. The option of increasing the Transient Lodging Tax (TLT) would also increase the contribution to the visitor center. Mayor Andrews asked Councilor Howard if the terms of agreement address his concern. Councilor Howard stated they do not.

Councilor Shelton stated there is some protection for the city under the budget laws. The fact that it was seen as a partnership and the at-will language remained in the contract makes things comfortable for him. The partnership with the chamber is looking to grow as well.

MOTION: Witherspoon/Rierson to approve **Resolution No. 2011-2927** approving an agreement with the Chamber of Commerce to operate and manage a Visitor Information Center (6 Yes/1 No [Howard]) Motion carried.

MOTION WITHDRAWN: Mayor Andrews and Councilor Howard withdrew their motion made on October 4, 2010, to reconsider the Visitor Center Funding decision from the September 7, 2010, meeting. Motion withdrawn as no councilors contested the withdrawal.

2. Consider a motion approving **Ordinance No. 2011-2735** establishing provisions for second-hand dealers to operate in the City. **(Legislative Hearing)**

This item was heard out of order as posted on the agenda.

MOTION: Shelton/Bacon to table **Ordinance No. 2011-2735** establishing provisions for second-hand dealers to operate in the City to a date uncertain. (7 Yes/0 No) Motion carried.

Mayor Andrews recessed the meeting at 8:55 PM for a five minute break. The meeting was called back to order at 9:00 PM.

X. COUNCIL BUSINESS

TIME – 9:00 PM

Mr. Terrance Mahr, City Attorney, presented the staff report for City Council Guidelines (see official meeting packet for full report).

Mr. Roger Wiltshire requested a comment be inserted indicating the City Council members abide by the Constitutions of the USA and the State of Oregon. He did not read where a City Council member would be required to serve in the interest of their district to the best of their ability.

Councilor McKinney asked Mr. Wiltshire if he was here when councilors gave their oath to support the constitution and the city ordinances. Mr. Wiltshire stated he was present and did hear the oaths that were made.

Mr. Hank Grum expressed concern that large dollar items are approved under consent calendar instead of appearing as a regular business item to allow comments or deliberations from the public or the City Council on the matter. He asked for clarification on what can go on a consent calendar without any previous scrutiny from the public.

Councilor Shelton assumed this was in reference to the year 2009 when the prior public works director began looking at projects and it was discussed there would be a possibility a loan from the State might be available at a lower interest rate; he wondered if this detail had not been considered in newer discussions.

Mr. Danicic added the charter does not deal with where items are placed on agenda addressed by the Council Guidelines and Rules. The agenda is established by the Mayor and city manager, taking into account the amount of time available for the action items to be considered. Items are placed on the agenda based on statutory requirements for which items need a public hearing and which items can be adopted at the same time as others in a consent format. The items placed on the consent calendar are not items the council has seen for the first time; they have been given the information and background, which has also been published for the public to view, and it is their choice to decide if they have enough information to vote on the item or they may pull it out of the consent calendar and discuss it individually.

Mr. Terrance Mahr, City Attorney, continued the staff report with the council rules providing review section by section and taking recommendations for changes, which will be brought back for final review and approval.

Councilor Rierson suggested Council have further discussion on fluoridation presented in tonight's work session. Councilor McKinney stated he was glad to receive the report and would like to hear more details too.

Councilor Rierson asked the City Council for a one time donation of \$10,000.00 toward the Chehalem Paddle Launch Kayak Shack project. The project budget will be around \$30,000.00 providing a trailer to the Chehalem Park and Recreation District as well as emergency beacons, which will send a GPS signal to allow for safety. Councilor Shelton stated he likes the idea of tying it to Newberg through the water access. This is an ideal place to go paddling because the main channel sees a lot of motorized boats and fishing. The more events they have at the water front the more others will want to live and consider future businesses down there. Mayor Andrews stated he likes the concept but may have a hard time authorizing the funds for the project. Councilor Shelton asked Mr. Danicic where the money would come from if they did not use the TLT fund. Mr. Danicic stated it would be the general fund contingency. There is not much available and would prefer the use of TLT funds.

<p>MOTION: Witherspoon/Andrews moved to designate \$5,000.00 from the TLT fund to the development of the Chehalem Paddle Launch Kayak Shack. (7 Yes/0 No) Motion carried.</p>
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XI. EXECUTIVE SESSION

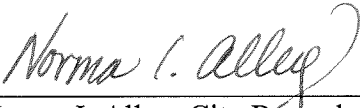
Executive Session pursuant to ORS 192.660(2)(e) relating to a real property transaction, ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed, and ORS 192.660(2)(g) relating to preliminary negotiations involving matters of trade or commerce.

The meeting went into executive session at 11:00 p.m. The Council came out of executive session at 11:32 p.m.

XII. ADJOURNMENT


The meeting adjourned at 11:32 p.m.

ADOPTED by the Newberg City Council this 4th day of April, 2011.



Norma I. Alley, City Recorder

ATTEST by the Mayor this 29th day of June, 2011.



Bob Andrews, Mayor